

26-3-1. Definitions.

As used in this chapter:

(1) "Disclosure" or "disclose" means the communication of health data to any individual or organization outside the department.

(2) "Health data" means any information, except vital records as defined in Section 26-2-2, relating to the health status of individuals, the availability of health resources and services, and the use and cost of these resources and services.

(3) "Identifiable health data" means any item, collection, or grouping of health data which makes the individual supplying it or described in it identifiable.

(4) "Individual" means a natural person.

(5) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part of any of these.

(6) "Research and statistical purposes" means the performance of activities relating to health data, including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the interrelationships among the various characteristics of individuals or organizations;

(c) the conduct of statistical procedures or studies to improve the quality of health data;

(d) the design of sample surveys and the selection of samples of individuals or organizations;

(e) the preparation and publication of reports describing these matters; and

(f) other related functions.

Amended by Chapter 202, 1995 General Session

26-3-2. Powers of department to collect and maintain health data.

The department may on a voluntary basis, except when there is specific legal authority to compel reporting of health data:

(1) collect and maintain health data on:

(a) the extent, nature, and impact of illness and disability on the population of the state;

(b) the determinants of health and health hazards;

(c) health resources, including the extent of available manpower and resources;

(d) utilization of health care;

(e) health care costs and financing; or

(f) other health or health-related matters;

(2) undertake and support research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in Subsection (1) of this section;

(3) collect health data under other authorities and on behalf of other governmental or not-for-profit organizations.

Enacted by Chapter 126, 1981 General Session

26-3-4. Quality and publication of statistics.

The department shall:

(1) take such actions as may be necessary to assure that statistics developed under this chapter are of high quality, timely, and comprehensive, as well as specific, standardized, and adequately analyzed and indexed; and

(2) publish, make available, and disseminate such statistics on as wide a basis as practicable.

Enacted by Chapter 126, 1981 General Session

26-3-5. Coordination of health data collection activities.

(1) The department shall coordinate health data activities within the state to eliminate unnecessary duplication of data collection and maximize the usefulness of data collected.

(2) Except as specifically provided, this chapter does not independently provide authority for the department to compel the reporting of information.

Amended by Chapter 201, 1996 General Session

26-3-6. Uniform standards -- Powers of department.

The department may:

(1) participate and cooperate with state, local, and federal agencies and other organizations in the design and implementation of uniform standards for the management of health information at the federal, state, and local levels; and

(2) undertake and support research, development, demonstrations, and evaluations that support uniform health information standards.

Amended by Chapter 201, 1996 General Session

26-3-7. Disclosure of health data -- Limitations.

The department may not disclose any identifiable health data unless:

(1) one of the following persons has consented to the disclosure:

(a) the individual;

(b) the next-of-kin if the individual is deceased;

(c) the parent or legal guardian if the individual is a minor or mentally incompetent; or

(d) a person holding a power of attorney covering such matters on behalf of the individual;

(2) the disclosure is to a governmental entity in this or another state or the federal government, provided that:

(a) the data will be used for a purpose for which they were collected by the department; and

(b) the recipient enters into a written agreement satisfactory to the department agreeing to protect such data in accordance with the requirements of this chapter and department rule and not permit further disclosure without prior approval of the department;

(3) the disclosure is to an individual or organization, for a specified period, solely

for bona fide research and statistical purposes, determined in accordance with department rules, and the department determines that the data are required for the research and statistical purposes proposed and the requesting individual or organization enters into a written agreement satisfactory to the department to protect the data in accordance with this chapter and department rule and not permit further disclosure without prior approval of the department;

(4) the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation, or investigation of the department and such governmental entity agrees not to use those data for making any determination affecting the rights, benefits, or entitlements of any individual to whom the health data relates;

(5) the disclosure is of specific medical or epidemiological information to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or agencies responsible to enforce quarantine, when necessary to continue patient services or to undertake public health efforts to control communicable, infectious, acute, chronic, or any other disease or health hazard that the department considers to be dangerous or important or that may affect the public health;

(6) (a) the disclosure is of specific medical or epidemiological information to a "health care provider" as defined in Section 78B-3-403, health care personnel, or public health personnel who has a legitimate need to have access to the information in order to assist the patient or to protect the health of others closely associated with the patient; and

(b) this Subsection (6) does not create a duty to warn third parties;

(7) the disclosure is necessary to obtain payment from an insurer or other third-party payor in order for the department to obtain payment or to coordinate benefits for a patient; or

(8) the disclosure is to the subject of the identifiable health data.

Amended by Chapter 278, 2013 General Session

26-3-8. Disclosure of health data -- Discretion of department.

Any disclosure provided for in Section 26-3-7 shall be made at the discretion of the department, except that the disclosure provided for in Subsection 26-3-7(4) shall be made when the requirements of that paragraph are met.

Amended by Chapter 297, 2011 General Session

26-3-9. Health data not subject to subpoena or compulsory process -- Exception.

Identifiable health data obtained in the course of activities undertaken or supported under this chapter may not be subject to discovery, subpoena, or similar compulsory process in any civil or criminal, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this chapter be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to

subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this chapter.

Amended by Chapter 201, 1996 General Session

26-3-10. Department measures to protect security of health data.

The department shall protect the security of identifiable health data by use of the following measures and any other measures adopted by rule:

- (1) limit access to identifiable health data to authorized individuals who have received training in the handling of such data;
- (2) designate a person to be responsible for physical security;
- (3) develop and implement a system for monitoring security; and
- (4) review periodically all identifiable health data to determine whether identifying characteristics should be removed from the data.

Amended by Chapter 201, 1996 General Session

26-3-11. Relation to other chapters.

Because Chapters 2, 4, 6, and 33a contain specific provisions regarding collection and disclosure of data, the provisions of this chapter do not apply to data subject to those chapters.

Amended by Chapter 243, 2005 General Session